



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**JAN 25 2018**

Mr. Christopher O. Murray, Esq.  
Brownstein Hyatt Farber Schreck, LLP  
410 Seventeenth Street, Suite 2200  
Denver, CO 80202

RE: AR 17-05  
MUR 7305  
Colorado Republican Committee and  
Marty Neilson, in her official  
capacity as treasurer

Dear Mr. Murray:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On August 8, 2017 and October 13, 2017, the Commission notified the Committee that it was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On December 7, 2017, the Commission decided not to open a Matter Under Review in connection with the Commission's audit of the Committee's 2012 election cycle activity and closed the file. The Commission, however, found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2)(F) in connection with the Reports Analysis Division ("RAD") referral of 2016 election cycle activity identifying reporting violations. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's finding in the RAD referral.

Please note that the Committee has a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Ray Wolcott, the attorney assigned to this matter, at (202) 694-1302 or (800) 424-9530, or [rwolcott@fec.gov](mailto:rwolcott@fec.gov), within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within 60 days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if the Committee is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

In the meantime, this matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter  
Chair

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

Christopher O. Murray, Esq.  
AR 17-05 / MUR 7305 (Colorado Republican Committee)  
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**Enclosures**

1. Certification
2. Factual and Legal Analysis
- 3.

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2017 DEC 18 PM 12:17

BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of )  
Colorado Republican Committee and ) AUDIT REFERRAL 17-05 and RAD  
Marty Neilson, in her official capacity as ) REFERRAL 17L-19  
treasurer )

CERTIFICATION

I, Laura E. Sinram, recording secretary of the Federal Election Commission executive session, do hereby certify that on December 07, 2017, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 2-2 to:
  - a. Open a MUR in AR 17-05.
  - b. Merge RR 17L-19 into the MUR.
  - c. Find reason to believe that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer, violated 52 U.S.C. § 30104(b)(2) and (4).
  - d. Find reason to believe that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer, violated 52 U.S.C. § 30104(g)(1).
  - e. Find reason to believe that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer, violated 52 U.S.C. § 30104(b)(8).
  - f. Find reason to believe that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer, violated 52 U.S.C. § 30104(b)(2)(F).
  - g. Approve the Factual and Legal Analysis, as recommended in the First General Counsel's Report dated November 6, 2017.

- h. Authorize pre-probable cause conciliation with the Colorado Republican Committee and Marty Neilson in her official capacity as treasurer.
- i. Approve the proposed conciliation agreement, as recommended in the First General Counsel's Report dated November 6, 2017.
- j. Approve the appropriate letters.

Commissioners Walther and Weintraub voted affirmatively for the motion.

Commissioners Goodman and Hunter dissented. Commissioner Petersen was not present and did not vote.

2. Decided by a vote of 4-0 to:

MUR # 7305

- a. Open a MUR in RR 17L-19.
- b. Find reason to believe that the Colorado Republican Committee and Marty Neilson, in her official capacity as treasurer, violated 52 U.S.C. § 30104(b)(2)(F) by misstating financial activity.
- c. Approve the Factual and Legal Analysis, as recommended in the First General Counsel's Report dated November 6, 2017, with edits to be made by the Office of General Counsel conforming it to the Commission's findings and, specifically, to focus on the 2016 misstatement of financial activities.
- d. Authorize pre-probable cause conciliation with the Colorado Republican Committee and Marty Neilson in her official capacity as treasurer.
- e. Approve the proposed conciliation agreement, as recommended in the First General Counsel's Report dated November 6, 2017.
- f. Approve the appropriate letters.

Commissioners Goodman, Hunter, Walther, and Weintraub voted affirmatively for the decision. Commissioner Petersen was not present and did not vote.

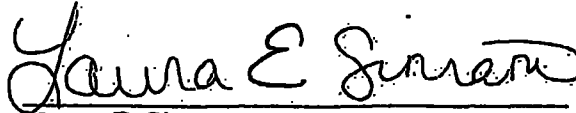
Federal Election Commission  
Certification for AR 17-05/RR 17L-19  
December 7, 2017

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Attest:

12/8/17

Date



Laura E. Sinram

Deputy Secretary of the Commission

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Colorado Republican Committee and Marty **MUR 7305**  
4 Neilson, in her official capacity as  
5 treasurer

6 **I. INTRODUCTION**

7 This matter arises from an audit of the Colorado Republican Committee's (the  
8 "Committee") activity during the 2016 election cycle.

9 On July 21, 2017, RAD referred the Committee to the Commission's Alternative Dispute  
10 Resolution Office ("ADRO") for failing to disclose all receipts on their 2016 12-Day Pre-  
11 General Report. The Committee was notified of the referral on August 3, 2017.<sup>1</sup> This activity  
12 was later referred to OGC on October 12, 2017, after the Committee did not respond to ADRO's  
13 attempts at contact.<sup>2</sup> In their Response, the Committee does not dispute the underlying facts of  
14 the referral, but requests that the matter be transferred back to ADRO.<sup>3</sup>

15 For the reasons that follow, the Commission finds reason to believe that the Committee  
16 failed to disclose receipt of a transfer from the Republican National Committee (the "RNC") in  
17 violation of 52 U.S.C. § 30104(b)(2)(F).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 RAD referred the Committee for failing to disclose \$132,560 in receipts on the  
20 Committee's 2016 12-Day Pre-General Report.<sup>4</sup> The \$132,560 in receipts consisted of a single

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<sup>1</sup> See Letter from Krista Roche, Acting Director, ADRO, FEC, to Marty Neilson, Treasurer, Colorado Republican Committee at 2 (Aug. 3, 2017).

<sup>2</sup> See Letter from Jeff S. Jordan, Assistant General Counsel, CELA, FEC, to Marty Neilson, Treasurer, Colorado Republican Committee at 1 (Oct. 13, 2017).

<sup>3</sup> Resp. at 2 (Oct. 27, 2017).

<sup>4</sup> See RR 17L-19 at 1 (July 21, 2017).

1 transfer from the RNC received by the Committee on October 3, 2016.<sup>5</sup> The transfer was not  
2 disclosed by the Committee until January 31, 2017, when the Committee filed an amended 2016  
3 12-Day Pre-General Report.<sup>6</sup> In response to a Request for Additional Information (“RFAI”)  
4 prior to the RAD Referral, the Committee stated that the increased activity was the “result of a  
5 transfer from the RNC that was not included in the financial records of the party until a bank  
6 reconciliation was performed ... in the normal course of business at the end of the month ...”<sup>7</sup>

7 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires committee  
8 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
9 52 U.S.C. § 30104(b). This includes the requirement to disclose transfers from other political  
10 party committees.<sup>8</sup> Since the record indicates — and the Committee does not deny<sup>9</sup> — that the  
11 Committee failed to report the transfer on its 2016 12-Day Pre-General Report, the Commission  
12 finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2)(F).

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<sup>5</sup> See Colorado Republican Committee Miscellaneous Electronic Submission (files June 22, 2017) (Image 201706229065072450); Colorado Republican Committee Amended 2016 12-Day Pre-General Report at 18 (filed Jan. 31, 2017).

<sup>6</sup> See Referral at 2.

<sup>7</sup> See RR 17L-19 at 2;

<sup>8</sup> 52 U.S.C. § 30104(b)(2)(F).

<sup>9</sup> Resp. at 2. Respondents allege that they did not receive the RFAI sent by RAD on April 16, 2017, but admit that the Committee’s original 2016 12-Day Pre-General Report erroneously omitted \$132,560 in receipts, necessitating the January 31, 2017, amendment.